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TO: Members of the Judiciary Committee

FROM: Kevin Brophy, Attorney for CT Legal Services
**Raised Bill S.B. No. 367, AN ACT CONCERNING THE
RIGHT OF A COMPLAINANT TO INTERVENE IN A
HOUSING DISCRIMINATION ACTION**

DATE: March 26, 2010

I am the Director of Elder Law for Connecticut Legal Services, a non-profit legal aid agency. I am submitting testimony in support of Raised Bill S.B. 367. This bill would remove any confusion about the status of a person who has alleged housing discrimination (the complainant) when a case has been transferred to the Superior Court after a finding of reasonable cause by the Commission on Human Rights and Opportunities (CHRO). The bill would confirm that the complainant can intervene as of right and be treated as a separate distinct party.

The Current Statutory Scheme in Connecticut

- A victim of housing discrimination has a right to file a complaint with CHRO.
- CHRO investigates the complaint and makes a finding whether there is reasonable cause that discrimination has occurred.
- If there is a finding of reasonable cause, the case is heard at an administrative hearing before a hearing officer. However, either the tenant or landlord has the right to transfer it to the Superior Court.
- If it is transferred, CHRO commences an action in the Superior Court under Conn. Gen. Stat. Section 46a-83(d)(2). CHRO brings the case in its own name in relation to the alleged victim of discrimination against the landlord.
- The victim of the discrimination may request to intervene and be treated as a separate distinct party in the action.
- Conn. Gen. Stat. Section 46a-83(d), however, is silent as to whether the alleged victim of discrimination has a guaranteed right to intervene.
- In *Commission on Human Rights and Opportunities v. Litchfield Housing Authority*, 117 Conn.App.30 (2009), the Appellate Court unanimously affirmed that complainants have this right.
- That decision has been appealed and the Supreme Court has granted certification.



S.B. 367 Clarifies Existing Law and Eliminates Any Confusion

S.B. 367 would amend Conn. Gen. Stat. Section 46a-83(d)(2) and plainly state that alleged victims of discrimination have a right to intervene and be treated as a separate party to the action.

1. Under any other interpretation, the alleged victims of discrimination could be denied the opportunity to present their cases and make their specific requests for relief. Our system of justice, however, is based on each party being able to fairly and vigorously present his or her case.
2. CHRO and victims of housing discrimination may have divergent interests in a discrimination case.
3. Under any other interpretation, victims of discrimination who want to be able to assert their own claims or have their own representation would be forced to bring a Superior Court action directly and not file the complaint with CHRO at all. Not only would this be more burdensome for the victim but it would undercut the role of CHRO, which is the lead state agency for resolving disputes with tenants and landlords over discrimination claims.
4. The Connecticut Fair Housing Statute was modeled after the federal fair housing statute. The federal fair housing statute allows complainants to Intervene as of right.
5. The State of Connecticut risks losing federal dollars, if our fair housing statutes are not "substantially equivalent" to the federal fair housing statutes.

Conclusion

Please support S.B. 367. It will remove any confusion over whether complainants are entitled to intervene when a case has been transferred to the Superior Court. Victims of discrimination should have the opportunity to be full and distinct parties with the ability to present their case so the court can make a just and fully-informed decision. S.B. 367 assures that this interpretation of the existing law will remain in place.